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Mack H Shumate, Jr.  
Senior General Attorney, Law Department

November 24, 2008

**VIA E-FILING/U.P.S. OVERNIGHT**

The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

**Re: Abandonment Exemption of the Lawton Industrial Lead from M. P. 50.75 near Fort Sill to M. P. 54.60 south of Lawton, a distance of 3.85 miles in Comanche County, Oklahoma; STB Docket No. AB-33 (Sub-No. 267X)**

Dear Ms. Quinlan:

Pursuant to the Board's exemption procedures for abandonment of rail lines with no local business for at least two years (49 C.F.R. § 1152.50), I am hereby e-filing the Verified Notice of Exemption, including a Certificate of Service and Publication, the original of which is enclosed and sent to you via U.P.S. Overnight/Next Day Air for your reference.

Please file the Notice of Exemption in Docket No. AB-33 (Sub-No. 267X). Enclosed is a credit authorization voucher in the amount of \$3,700.00 for the filing fee.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", with a stylized flourish at the end.

Attachment

cc: All Concerned Parties

O:\ABANDONMENTS\33-267X\STB-NOE-Ltr.doc

**Before the**  
**SURFACE TRANSPORTATION BOARD**

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**Docket No. AB-33 (Sub-No. 267X)**

**UNION PACIFIC RAILROAD COMPANY  
-- NOTICE OF EXEMPTION --  
IN COMANCHE COUNTY, OKLAHOMA  
(LAWTON INDUSTRIAL LEAD)**

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**NOTICE OF EXEMPTION**

**UNION PACIFIC RAILROAD COMPANY**

**Mack H. Shumate, Jr., Senior General Attorney  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606  
Tel: 312-777-2055  
Fax: 312-777-2065**

**Dated: November 24, 2008**

**Filed: November 24, 2008**

Before the  
SURFACE TRANSPORTATION BOARD

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Docket No. AB-33 (Sub-No. 267X)

UNION PACIFIC RAILROAD COMPANY  
-- NOTICE OF EXEMPTION --  
IN COMANCHE COUNTY, OKLAHOMA  
(LAWTON INDUSTRIAL LEAD)

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**NOTICE OF EXEMPTION**

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption pursuant to 49 C.F.R. §1152, Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, for an exempt abandonment and discontinuance of lease operation over the Lawton Industrial Lead from Milepost 50.75 near Fort Sill, Oklahoma, to Milepost 54.60 south of Lawton, a distance of 3.85 miles in Comanche County, Oklahoma (the "Line").

**Proposed Consummation Date: 49 C.F.R. §1152.50 (d)(2)**

The abandonment and discontinuance of lease operation over the Line is proposed to be consummated on or after January 13, 2009 (at least 50 days after filing the Notice of Exemption).

**Certification: 49 C.F.R. §1152.50(b)**

UP certifies that no local traffic has moved over the Line for at least two years; and that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Line either is pending with this Board or any U.S. District Court or has

been decided in favor of the complainant within the two-year period. UP further certifies that there is no overhead traffic on the Line.

**Additional Information Required: 49 C.F.R. §1152.22(a)(1) (4), (7)-(8) and (e)(4)**

**(a) General.**

**(a)(1)** The railroads' exact name is Union Pacific Railroad Company.

**(a)(2)** UP is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

**(a)(3)** UP intends to abandon and discontinue its lease operation over the Line from Milepost 50.75 near Fort Sill to Milepost 54.60 south of Lawton, a distance of 3.85 miles. The Line is located in Comanche County, Oklahoma.

**(a)(4)** A map showing the location of the Line in conjunction with other rail lines, highways and major roads in the area is attached hereto as **Exhibit A** and hereby made a part hereof.

**(a)(7)** The representative to whom correspondence regarding this abandonment should be sent is:

Mack H. Shumate, Jr., Senior General Attorney  
Union Pacific Railroad Company  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606  
Tel. 312-777-2055  
Fax: 312-777-2065

**(a)(8) ZIP Code.** The Line traverses U. S. Postal Service Zip Code 73503.

**(e)(4) Rural and Community Impact.** The Line was constructed by the Enid and Anadarko Railway in 1901. It is currently constructed of 85-pound jointed rail put down no later than 1940.

The Line is currently leased by UP for railroad operations from the State of Oklahoma, which has no underlying common carrier obligation resulting from its

**purchase of the property which makes up the Line from Charles A. Gibbons, Trustee of the Property of the Chicago, Rock Island and Pacific Railroad, debtor. A significant benefit of the proposed discontinuance of UP's lease operation of the Line is that it will permit the owner, the State of Oklahoma, through the Oklahoma Department of Transportation to eliminate the Interstate 44 grade separation at Milepost 52.35 when that highway is rebuilt and improved.**

**The discontinuance of UP's lease operation on the Line will have no adverse effect on shippers. No local traffic has moved on the Line in at least two years, and there is no overhead traffic on the Line. No complaint regarding cessation of service has been submitted, is pending, or has been ruled upon in favor of complainant in the last two years. After discontinuance of UP's lease operation on the Line, the closest UP rail station will be Ft. Sill on the north end of the Line, and service to the base will not be affected by the proposed action. Lawton will continue to receive rail service from the Stillwater Central Railroad, which also serves Ft. Sill. Major highways in the area include Interstate 44, a north-south route, which though it crosses the Line, essentially parallels it; and U S. Route 62, which runs westward from Ft. Sill.**

**Based on information in UP's possession, the Line is owned by the State of Oklahoma and does contain federally granted right-of-way. Any documentation in UP's possession will be made available to those requesting it.**

### **Labor Protection**

**The interests of railroad employees will be protected by the conditions discussed in Oregon Short Line Railroad Co. – Abandonment – Goshen , 360 ICC 91 (1979).**

### **Certifications**

Attached hereto as **Exhibit B** and hereby made a part hereof is a Certificate of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§1152.50(d)(1), 1105.11 and 1105.12.

### **Environmental and Historic Report**

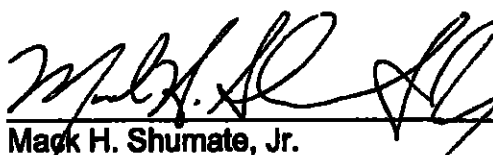
A copy of the Transmittal Letter of UP's Combined Environmental and Historic Report containing the information required by 49 C.F.R. §§1105.7 (e) and 1105.8, and delivered in accordance with 49 C.F.R. §1105.11, is attached hereto as **Exhibit C** and hereby made a part hereof. The original was filed electronically with Anne K. Quinlan, Section of Environmental Analysis (SEA), on August 12, 2008. The Oklahoma State Historical Preservation Office examined available documentation concerning the proposed abandonment of UP's lease operation on the Line and concluded that there will be no historic properties affected by the proposed abandonment. The Oklahoma State Historical Preservation Office response was attached to UP's Combined Environmental and Historic Report as Exhibit 5.

Subsequent to the filing of the Combined Environmental and Historic Report on August 12, 2008, UP received a letter from the Department of Army Corps of Engineers dated August 20, 2008, a copy of which is attached hereto as **Exhibit D** and hereby made a part thereof. This letter provides that a permit under Section 404 of the Clean Water Act will not be required.

Dated this 24<sup>th</sup> day of November, 2008

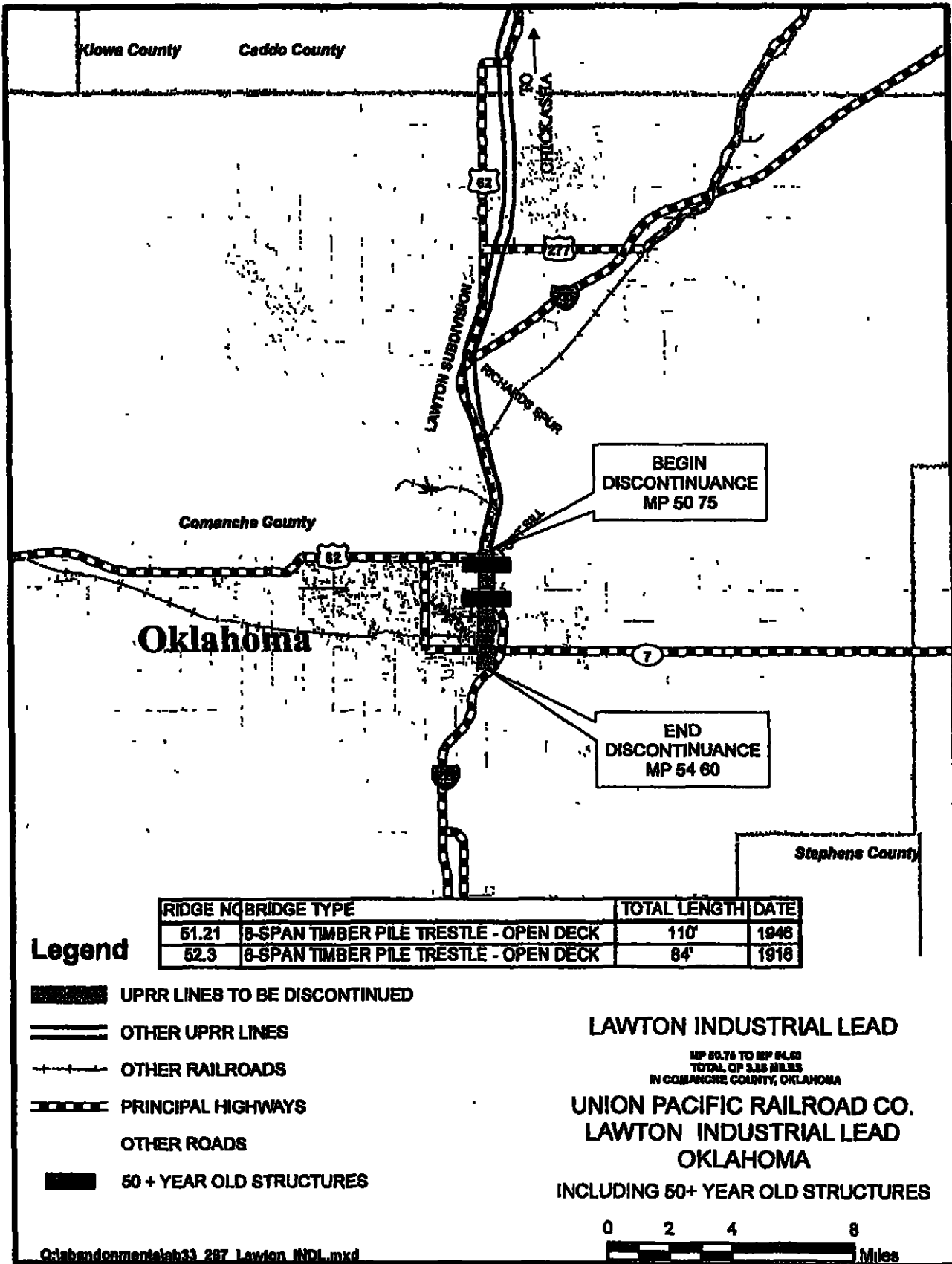
Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

A handwritten signature in black ink, appearing to read 'M. H. Shumate, Jr.', written over a horizontal line.

Mack H. Shumate, Jr.  
Senior General Attorney  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606  
Tel: 312-777-2055  
Fax: 312-777-2065

# EXHIBIT A





**UNION PACIFIC RAILROAD COMPANY  
--ABANDONMENT EXEMPTION--  
IN COMANCHE COUNTY, OKLAHOMA  
(LAWTON INDUSTRIAL LEAD)**

**CERTIFICATE OF SERVICE AND PUBLICATION**

**49 C.F.R. § 1152.50(d)(1) - Notice**

The undersigned certifies that on August 21, 2008 (at least 10 days before a Notice of Exemption is filed), written notice was given of Union Pacific's intent to use the exemption notice procedure to abandon and discontinue its lease operation over the Lawton Industrial Lead from Milepost 50.75 near Fort Sill to Milepost 54.60 south of Lawton, a distance of 3.85 miles in Comanche County, Oklahoma in Docket No. AB-33 (Sub-No. 267X). Written notice (a copy of which is attached) was served on the following:

Oklahoma Department of Transportation  
200 N. E 21<sup>st</sup> Street  
Oklahoma City, OK 73105

National Park Service  
Intermountain Region  
12795 Alameda Parkway  
Denver, Co 80228

U. S Department of Agriculture  
Department of Forest Service  
4<sup>th</sup> Floor, N. W. Auditors Building  
14<sup>th</sup> Street & Independence Ave. S.W.  
Washington, DC 20250

Department of Defense  
ATTN. SDTE-SA  
Railroads for National Defense Program  
Military Surface Deployment &  
Distribution Command  
Transportation Engineering Agency  
709 Ward Drive, Building 1990  
Scott AFB, IL 62225-5357

**49 C.F.R. § 1105.11—Environmental and Historic Report**

The undersigned certifies that on August 12, 2008 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report pursuant to 49 C.F.R. §§ 1105.7 and 1105.8 was served in Docket No AB-33 (Sub-No. 267X) for

abandonment and discontinuance of the Lawton Industrial Lead in Comanche County, Oklahoma on the following:

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) State Coastal Zone Management Agency
- (4) Head of each County
- (5) U S Environmental Protection Agency (regional office)
- (6) U S. Fish and Wildlife Service
- (7) U S Army Corps of Engineers
- (8) National Park Service
- (9) U S Natural Resources Conservation Service
- (10) The National Geodetic Survey
- (11) State Historic Preservation Office
- (12) Other Agencies Consulted (as listed)

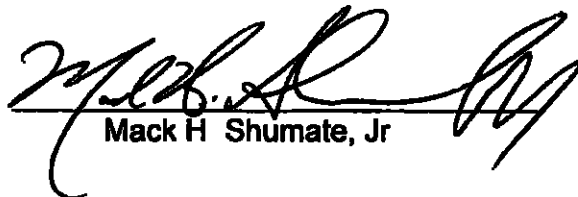
(The Certificate of Service attached to the Combined Environmental and Historic Report lists the names and addresses of the federal, state and local agencies served )

**49 C.F.R. § 1105.12 - Newspaper Notice**

The undersigned further certifies that a "Notice of Intent to Discontinue Lease Operation" was published in the form prescribed by the Board for a Notice of Exemption. The Notice was published one time in a major newspaper in the county in which the Line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Comanche	<i>Lawton Constitution</i>	October 29, 2008

Dated this 24th day of November, 2008.

  
Mack H Shumate, Jr

**EXHIBIT C**



**Mack H. Shurnate, Jr.**  
Senior General Attorney, Law Department

August 12, 2008

**VIA E-FILING**

Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

**Re: Abandonment Exemption of the Lawton Industrial Lead from  
M.P. 50.75 near Fort Sill to M.P. 54.60 south of Lawton, a  
distance of 3.85 miles in Comanche County, Oklahoma;  
STB Docket No. AB-33 (Sub-No. 267X)**

Dear Ms. Quinlan:

Attached for filing in the above-referenced docket is the Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11.

Union Pacific anticipates filing a Notice of Exemption in this matter on or after September 1, 2008.

Sincerely,

*Mack H. Shurnate*  
(Sm)

Attachment

cc: All Concerned Parties

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DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, TULSA DISTRICT  
1645 SOUTH 101ST EAST AVENUE  
TULSA, OKLAHOMA 74128-4609

EXHIBIT D

AUG 20 2008

Regulatory Office

Please reference your letter of August 12, 2008, enclosed.

The provided information does not indicate that a placement of dredged or fill material will be required, permanently or temporarily, into any "waters of the United States," including jurisdictional wetlands. Therefore, your proposal is not subject to regulation pursuant to Section 404 of the Clean Water Act, and a Department of the Army (DA) permit will not be required.

Should your method of construction necessitate such a discharge into any "waters of the United States," we suggest that you resubmit that portion of your project so that we may determine whether an individual DA permit will be required.

Although DA authorization is not required, this does not preclude the possibility that other Federal, State, or local permits may be required.

If further assistance is required, please telephone 918-669-7400.

RECEIVED

AUG 25 2008

LAW DEPARTMENT  
UNION PACIFIC RR CO.